IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

Chapter VIII, Rule 32(2) (b)
Description of case

Civil Writ Petition No. 869 (S/S) of 2001

Satish C. Joshi & others	……	Petitioners
	Versus	
State of Uttaranchal, Through Cane Commissioner, Uttaranchal and others	……	Respondents.

Date of decision: 17th Sep., 2004

For the approval of:

Hon'ble Mr. Justice P.C. Pant

- Whether the order/judgment should be sent to the reporters for reporting?

- Whether the reporters be allowed to see the judgment?

IN THE HIGH COURT OF UTTARANCHAL
AT NAINITAL

CIVIL MISC. WRIT PETITION NO. 869(S/S) OF 2001

1. Mr. Satish C. Joshi
2. Mr. Tara Singh
3. Mr. Prem Pal Singh
4. Mr. Bharat Singh
5. Mr. Hari Shankar Gangwar

R/o Ganna Vikas Parishad, Kiccha, Udham Singh Nagar

…… Petitioners

Versus

1. State of Uttaranchal through cane Commissioner, Dehradun, Uttaranchal.
2. Secretary, Gram Vikas and Industrial Commissioner Dehradun, Uttaranchal.
3. Joint Cane Commissioner, Udham Singh Nagar.
4. District Cane Officer, Udham Singh Nagar.

…… Respondents

Mr. Udyog Shukla and Ms. Krishi Shukla learned counsel for the petitioners
Mr. Pitamber Maulekhi learned counsel Addl. Advocate General for the State.

HON'BLE P.C.PANT, J.

1. By means of this writ petition, moved under Article 226 of the Constitution of India, a mandamus directing the respondent no. 1 to 4 had been sought to provide the benefit of earlier service of the petitioners rendered by them.

2. The brief facts of the case as narrated in the writ petitioner are that the petitioners were initially appointed as Ganna Gram Sewak in the pay scale of Rs. 330-495 in the year 1977 except Sri Hari Shankar Gangwar, petitioner no. 4 who was appointed in the year 1980 (copy annexure 1 to the writ petition). They worked in

the said capacity in various branches of cane department under Shakkar Vikas Nidhi, Ganna Board till 1988. Vide G.O. no. 2623/CD/46 dated 04.06.1988 (copy annexure 2 to the writ petition) the State Government abolished all posts of Ganna Gram Sewak and created same number of posts of Cane Supervisors. In the said G.O. it is mentioned that the posts abolished are merged into the post created. Thereafter G.O. no. 1548/CD/10 dated 11.04.1989 and another G.O. no. 48/CD/14-10 transfer-2 dated 25.5.1989 were issued and it was made clear that all Ganna Sewaks stood promoted to the posts of Cane Supervisor in the pay scale of 400-10-450-12-474-EB-12-570-15-615. vide G.O. no. 2269/CD/46-93-28(156) 89 dated September 1993, it was directed that the Cane Supervisors will be given the benefits of their earlier service rendered by them as Ganna Gram Sewak. The copy of the said G.O. is annexure 4 to the writ petition. Letter no, 223/pra-capm/dated 25.08.1998 (copy annexure 6 to the writ petition) shows that the Government was moved by Cane Commissioner for taking decision regarding the contribution towards provident fund in the government exchequer so that the Cane Supervisors may be given the benefits of their earlier service rendered by them as Ganna Gram Sewak. However the benefits has not given to the petitioners so far due to which they are getting less salary than the one they are entitled to. Hence, the writ petition.

3. Counter affidavit has been filed on behalf of respondents no. 1 to 4 in which is has not been denied that the petitioners were initially appointed as Ganna Gram Sewak in the year 1977 and 1980 but it is stated that the said post was since under the Cane Board at that stage they were not the government servants. It is also admitted in the counter affidavit that the posts of Ganna Gram Sewak were abolished and in their place same number of posts of Cane Supervisor were created. It is also not disputed that the posts abolished were merged into the post created. It the counter affidavit it is further stated that the petitioners failed to deposit the contribution of the provident fund of the period of their earlier services in the government exchequer. Rather they withdrew their contribution from the Board under which they were earlier working. As such the benefits of previous service cannot be given to the petitioners.

4. I have heard the learned counsel for the parties and perused the affidavits, counter affidavits and rejoinder affidavit alongwith the annexures annexed thereto.

5. The short question for consideration of this court is whether the petitioners are wrongly denied the benefit of previous service rendered by then as Ganna Gram Sewak.

6. Admittedly, the petitioners were appointed earlier as Ganna Gram Sewak in the year 1977 and 1980 (as mentioned in annexure 1 to the writ petition). It is also

admitted that in the year 1988-89 the posts of Ganna Gram Sewak were abolished and same number of posts of Cane Supervisor were created in higher pay scale in which the posts were created. The dispute relates to the benefit of previous service rendered by the petitioners as Ganna Gram Sewak for their fixation of pay on the posts of cane Supervisor. The learned Counsel for the petitioners argued that even after giving the higher pay scale they were made to get less salary than what they were getting as Ganna Gram Sewak as they are deprived of their previous service rendered by them. G.O. no. 2623/CD/46 dated 04.06.1988 (copy annexure 2 to the writ petition) provides that the posts of Ganna Gram Sewak are merged into the posts of Cane Supervisor and also makes it clear that the Ganna Gram Sewak promoted as Cane Supervisor will be junior to the existing Cane Supervisors and their *inter se seniority* shall remain the same. G.O. no. 2269/CD/46-93-28(156)89 dated September 1993 provides that for giving benefits of the previous service to the Cane Supervisors regarding the service rendered by them as Ganna Gram Sewak, the contribution of the provident fund was required to be deposited in the government exchequer. Annexures CA4, CA5, CA6 and CA7 to the counter affidavit shows that the petitioners have received back their provident fund contribution form the Cane Board under which they were earlier working. As such definitely they cannot be given the benefits of the previous service unless they make necessary deposits in the government exchequer of

provident fund contribution relating to their earlier service.

7. In view of the above discussion this writ petition deserves and is disposed of with the directions that the respondents shall give the benefit to the petitioners of their earlier service rendered by them as Ganna Gram Sewak regarding the fixation of their pay scale provided the petitioners deposit the necessary provident fund contribution in the government exchequer as required by the government orders issued in this regard. The mandamus is issued accordingly. No order as to costs.

(P.C. Pant, J.)

September 17, 2004.